BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Eric and Theresa Cates	
	Dist. 2, Map 53H, Group A, Control Map 53H,) Franklin County
	Parcel 19.00, S.I. 000)
	Residential Property	
	Tax Year 2007	

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$945,000	\$425,100	\$1,370,100	\$342,525

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on November 7, 2007 in Winchester, Tennessee. The taxpayers, Eric and Theresa Cates, represented themselves. The assessor of property, Phillip Hayes, represented himself.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of a 206' x 299' site improved with a single family residence located on Tims Ford Lake at 856 Bluff Drive in Winchester, Tennessee.

Subject site originally consisted of three separate building lots. The three lots were subsequently combined for assessment purposes. Subject dwelling was constructed in the middle of two building lots with the concrete driveway traversing from the far corner of the third lot onto the house lot. For ease of reference, the administrative judge will refer to the two lots where the house sits as lots A and B; the lot with the driveway will be referred to as lot C.

The taxpayers contended that subject site should be valued at \$590,000. The taxpayers did not contest the \$425,100 appraisal of the improvements. Thus, the taxpayers asserted that subject property should be valued at a total of \$1,015,100.

The taxpayers maintained that the 2007 countywide reappraisal caused the appraisal of subject lot to increase excessively (\$245,200 to \$945,000) as well as their taxes. The taxpayers asserted that the highest and best use of subject site is not for three building lots because their home would have to be demolished and the driveway torn out.

The taxpayers argued that subject site should be appraised as two lots, each of which has a value of \$295,000. The taxpayers contended value of \$295,000 per lot was based on the highest sale of any lot in Fanning Bend as of the relevant assessment date of January 1, 2007. The taxpayers noted that no single lake lot in the area has ever sold for \$450,000.

The assessor contended that subject property should remain valued at \$1,370,100. In support of this position, three vacant land sales and three improved sales were introduced into evidence. The three vacant lot sales ranged from \$350,000 to \$365,000. In addition, the assessor argued that comparing subject lots to lots in Fanning Bend is not comparing "apples to apples" because the latter has community boat docks rather than individual docks like subject development.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$1,325,100. As will be discussed below, the administrative judge finds that subject site should be appraised at \$900,000 by valuing lots A and B at \$540,000 and lot C at \$360,000.

Since the taxpayer is appealing from the determination of the Franklin County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the fair market value of subject site as of January 1, 2007 constitutes the relevant issue. The administrative judge finds that the Assessment Appeals Commission has repeatedly rejected arguments based upon the amount by which an appraisal has increased as a consequence of reappraisal. For example, the Commission rejected such an argument in *E.B. Kissell, Jr.* (Shelby County, Tax Years 1991 and 1992) reasoning in pertinent part as follows:

The rate of increase in the assessment of the subject property since the last reappraisal or even last year may be alarming but is not evidence that the value is wrong. It is conceivable that values may change dramatically for some properties, even over so short of time as a year. . .

The best evidence of the present value of a residential property is generally sales of properties comparable to the subject, comparable in features relevant to value. Perfect comparability is not required, but relevant differences should be explained and accounted for by reasonable adjustments. If evidence of a sale is presented without the required analysis of comparability, it is difficult or impossible for us to use the sale as an indicator of value. . . .

Final Decision and Order at 2. Similarly, the Commission has ruled that the amount of taxes resulting from a particular appraisal is simply irrelevant to the issue of market value. See, e.g., *John C. & Patricia A. Hume* (Shelby Co., Tax Year 1991).

The administrative judge finds that the \$295,000 sale of the lot in Fanning Bend does not represent the highest lake lot sale in the area as evidenced by the sales introduced by the assessor of property. Moreover, the Fanning Bend sale should be adjusted to account for the fact that homeowners must utilize community boat docks. The administrative judge finds that having individual boat docks such as in subject development unquestionably enhances the market value of those lots.

The administrative judge finds that the three sales introduced by the assessor of property sold for \$350,000, \$355,000 and \$365,000. The administrative judge finds that since the sales were not adjusted it cannot be concluded that they support individual lot values of \$450,000 as contended by the assessor. The administrative judge finds that the sales support a value of \$360,000 for lot C. The administrative judge finds that such a value accounts for the relatively minor cost of removing any improvements on the property.

With respect to lots A and B, the administrative judge finds that the taxpayers treated them as having the value and utility of a single lot building site. The assessor, in contrast, appraised lots A and B as if they constituted two separate building sites. The administrative judge finds that reality falls somewhere between those two extremes. The administrative judge finds that lots A and B have greater utility and value than a single building lot, but do not have the value and utility of two distinct building lots. The administrative judge finds that lots A and B should be appraised by valuing the first lot at \$360,000. The administrative judge finds the second lot should be discounted by 50% resulting in an incremental value of \$180,000 and total site value of \$540,000 for lots A and B.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2007:

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
\$900,000	\$425,100	\$1,325,100	\$331,275

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal "must be filed within thirty (30) days from the date the initial decision is sent."

Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal "identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"; or

- 2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
- 3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 21st day of November, 2007.

MÁRK J. MINSKY

ADMINISTRATIVE JUDGE

TENNESSEE DEPARTMENT OF STATE

ADMINISTRATIVE PROCEDURES DIVISION

c: Eric and Theresa Cates
Phillip Hayes, Assessor of Property